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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/777,451	02/12/2004	Lilip Lau	PARCR 67465	4778

24201 7590 08/04/2006

FULWIDER PATTON  
6060 CENTER DRIVE  
10TH FLOOR  
LOS ANGELES, CA 90045

EXAMINER
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ALTER, ALYSSA M

ART UNIT	PAPER NUMBER
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3762

DATE MAILED: 08/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/777,451

**Applicant(s)**

LAU ET AL.

**Examiner**

Alyssa M. Alter

**Art Unit**

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 05 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 65-68, 70-77, 79-90, 92-96 and 98-105 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 65-68, 70-77, 79-90, 92-96, 98-105 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 12 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 5, 2006 has been entered.

### ***Response to Arguments***

Applicant's arguments, see 8, filed April 27, 2006, with respect to the rejection of claims 65-101 have been fully considered and are persuasive. The 35 U.S.C. 102(b) and 103(a) rejections of now pending claims 65-68, 70-77, 79-90, 92-96 and 98-105 has been withdrawn. However, in regards to the Double Patenting Rejections, due to an improper Terminal Disclaimer, see below, the Double Patenting Rejection still stands.

### ***Terminal Disclaimer***

The terminal disclaimer filed on April 27, 2006 disclaiming the terminal portion of any patent granted on this application, which would extend beyond the expiration date of March 3, 2004 has been reviewed and is NOT accepted.

The application/patent being disclaimed has been improperly identified since the number used to identify the co-pending application (10/793,546) being disclaimed is incorrect. The correct number is 10/793,549.

### ***Double Patenting***

As to the double patenting rejections enumerated in the previous Office Action, only one Terminal Disclaimer was filed. This terminal disclaimer for U.S. Application 10/704,376 (US Patent Publication 20050102010 A1) is noted and the double patenting rejection in regards to this application has been withdrawn. However, the remainder of the double patenting rejections for U.S. Application numbers: 10/793,549 (US Patent Publication 20050102012 A1), 11/002,609 (US Patent Publication 20050119717 A1), 10/656,722 (US Patent Publication 20040143154 A1) and 11/051,823 still stand rejected for reasons previously stated in the prior Office Action.

### ***Allowable Subject Matter***

1. Claims 65-68, 70-77, 79-90, 92-96 and 98-105 are rejected under Double Patenting Rejections as stated above, but would be allowable in the event that a proper Terminal Disclaimer was filed.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record fails to teach or reasonably suggest a cardiac harness with undulating strands or rows of hinge elements, wherein the first set of undulating strands or rows of hinge elements forming an electrode and a second set of undulating strands or rows of hinge elements have a dielectric coating and are electrically insulated from said electrode, in combination with the other elements in the claims.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Alyssa M. Alter whose telephone number is (571) 272-4939. The examiner can normally be reached on M-F 9am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Alyssa M. Alter*

Alyssa M Alter  
Examiner  
Art Unit 3762

*George R. Evanich*  
GEORGE R. EVANICH  
PRIMARY EXAMINER

9/3/11